Integrity and Other Legislation Amendment Bill 2023

Explanatory Notes

Short title

The short title of the Bill is the Integrity and Other Legislation Amendment Bill 2023.

Policy objectives and the reasons for them

To progress public sector integrity reforms, the Queensland Government committed to implementing the recommendations from *Let the sunshine in: Review of culture and accountability in the Queensland public sector* (Coaldrake Report) and the *Strategic Review of the Integrity Commissioner's Functions* (Yearbury Report).

The *Integrity and Other Legislation Amendment Act 2022*, passed by Parliament in November 2022, implements some of the Yearbury Report and Coaldrake Report recommendations.

A second Bill is required to implement the outstanding recommendations from the Coaldrake Report and Yearbury Report to strengthen the regulation of lobbyists and lobbying activities through amendments to the *Integrity Act 2009* and enhance the independence of core integrity bodies through changes to the *Auditor-General Act 2009*, *Ombudsman Act 2001*, *Right to Information Act 2009*, *Integrity Act 2009* and *Crime and Corruption Act 2001*.

The Integrity and Other Legislation Amendment Bill 2023 (the Bill) will:

- increase regulation of lobbying activity to address the public perception of undue influence on governments, including clarifying what lobbying activity is and enhancing the regulatory role of the Queensland Integrity Commissioner
- amend the conditions for registration as a lobbyist to reflect expectations around completing training and managing conflicts of interest
- introduce a prohibition on a registered lobbyist playing a 'substantial' role for a political party in an election campaign
- enhance core integrity bodies' independence by increasing the involvement of parliamentary committees in additional funding proposals and contributing to key appointments
- enhance the jurisdiction of the Queensland Ombudsman to consider complaints about, and initiate investigations of government services provided by non-government entities
- establish the Office of the Queensland Integrity Commissioner as a statutory body
- clarify the trusts that the Auditor-General is required to audit.

The Coaldrake Report recommends consideration of a suite of specific observations to enhance the independence of the Queensland Auditor-General made by the *Strategic Review of the Queensland Audit Office 2017* and further recommends applying these consistently across the five core integrity bodies.

It is proposed to amend core integrity bodies' legislation to give relevant parliamentary committees greater involvement in governance decisions for those integrity bodies. This includes requiring parliamentary committees to:

- agree to the recruitment process, remuneration, terms and conditions and subsequent appointment of the Queensland Ombudsman, Queensland Auditor-General, Queensland Integrity Commissioner and Queensland Information Commissioner
- consider and approve or otherwise, funding proposals from the core integrity agencies prior to Government consideration
- agree to the terms of reference for a strategic review and appointment of the strategic reviewer
- table integrity agencies' annual reports required under the *Financial Accountability Act 2009* (except for the Crime and Corruption Commission).

The Bill provides that where a committee-approved funding proposal is altered during budget considerations, the relevant portfolio Minister will be responsible for tabling a response, including the reasons for the alteration. The measures seek to balance the need to enhance the independence of integrity bodies, while not placing significant administrative burden on parliamentary committees, or abrogating the authority of the Executive Government under existing conventions.

The Bill will expand the Queensland Ombudsman's functions under the *Ombudsman Act 2001* to include non-government service providers, where the providers are contracted to deliver public services on behalf of government, in line with the Coaldrake Report recommendation. This will ensure appropriate oversight of entities delivering public services and enable the administrative actions and decisions of these entities to be independently investigated, should a complaint be made.

Achievement of policy objectives

Integrity Act 2009 - Lobbying reforms

The Bill amends the *Integrity Act 2009* to enhance the regulation of lobbying activity as recommended by both the Coaldrake and Yearbury Reports. Core definitions will be strengthened, situations where conflicts of interest arise due to lobbyists performing roles for political parties will be regulated and regulation of lobbying activity will be clarified and strengthened.

Chapter 4 (Regulation of lobbying activities) is being replaced by a new Chapter 4. The new chapter principally updates the chapter with contemporary drafting standards and retains much of the existing Chapter 4, but in a different order and/or re-crafted to provide improved readability.

Consistent with the intent of Recommendation 3 from the Coaldrake Report, the definition of lobbying activity has been broadened to include all those who attempt to influence government decision making. The definition of lobbyist has been removed as the intention is to capture the activity rather than the individual.

The chapter is then structured to assist in understanding in what circumstances lobbying activity should be registered in the renamed lobbying register.

Clarification is provided in the Bill of the exemptions from registration and activity that may disqualify a person from registration.

Notably the Bill introduces a prohibition on registered lobbyists performing a substantial and senior role in a Queensland state election campaign, for a political party. Registered lobbyists will be able to notify the integrity commissioner of their plan to take a senior, substantial role with a political party during an election period (issuance of Writ to day of election), and be removed from the register prior to taking up the political role.

After the election, the former registered lobbyist who performs a substantial role in an election campaign will be disqualified from further registration for the term of the government. The party for which the role was undertaken, whether that be successful in the election or otherwise, is not relevant to the disqualification.

Strengthening independence of integrity bodies

The Bill enhances the independence of core integrity bodies through amendments to the *Auditor-General Act 2009, Ombudsman Act 2001, Right to Information Act 2009, Integrity Act 2009* and *Crime and Corruption Act 2001.*

Funding proposal decisions

To help achieve independence of integrity bodies and consistent with the Coaldrake Report recommendation to *enhance the involvement of parliamentary committees in setting their budgets and contributing to key appointments*, the relevant parliamentary committees ('portfolio committee' for the Crime and Corruption Commission) will be required through the Bill to consider funding proposals put forward by the integrity bodies for any additional funding for the financial year and provide a report on the committee's decision on the proposal to the relevant Minister. 'Additional funding' for a financial year is defined in the Bill as, 'funding from the State for the (relevant integrity body) in addition to the allocated amount for the financial year'.

The Bill provides that the parliamentary committee must consult with appropriate officers of Queensland Treasury and may obtain advice or information from various persons, including the Treasurer, to prepare their report. The intent is to enable the parliamentary committee to seek relevant advice or information in making its recommendation and provides flexibility for the parliamentary committee in relation to the forum that may be used for consultation. The integrity body is not required to include in a funding proposal, or give to the parliamentary committee, any details that would prejudice a current audit, investigation, review or ethics or integrity issue under consideration (as relevant to the particular integrity body) or to disclose information that is privileged or subject to a duty to maintain confidentiality under an Act or other law. The parliamentary committee will have 20 business days (or another shorter period

if required by the Treasurer) to review the integrity body's funding proposal and give the Minister a report, either approving the funding proposal or an alternative funding proposal.

Should the relevant parliamentary committee not provide a report to the Minister within the required timeframe, the parliamentary committee is taken to have approved the integrity body's funding proposal. The parliamentary committee's recommendation, either supported by, or an alternative proposed by, the relevant Minister will then be incorporated into a CBRC submission. The matter will then be decided by government, with the relevant Minister subsequently tabling the parliamentary committee report and the Minister's response to the funding proposal (including any reasons if the parliamentary committee's recommendation was not accepted).

The policy intent is for the government of the day to retain its budget decision making authority in relation to the funding proposal, having taken into account the report of the parliamentary committee and the relevant Minister's view and for the parliamentary committee to be able to provide its report to the Minister, rather than the Assembly. The Bill seeks to balance integrity bodies' independence, with the Executive Government's responsibility for distribution of consolidated funds by providing an external arbiter of the merits of proposals and a transparent decision making framework. The consequential amendment to the *Parliament of Queensland Act 2001* is included in the Bill to ensure the additional functions being provided to the parliamentary committees are consistent with the role of the Legislative Assembly and committees generally.

Parliamentary committee involvement in appointments, annual reports and strategic reviews

The Coaldrake Report recommends that parliamentary committees contribute to the appointments of statutory integrity office holders. The Bill provides for an increased role of parliamentary committees in the key oversight areas of: appointments; strategic reviews; and annual reports. The changes enable parliamentary committees to put forward recommendations to relevant Ministers on these matters, prior to government or Governor in Council consideration and decisions (as appropriate), and tabling.

The Bill amends the relevant provisions of the integrity bodies' legislation (except for the *Crime and Corruption Act 2001*) to require parliamentary committee approval of recruitment and selection processes, the nominee proposed for appointment; and the remuneration, allowances and terms and conditions for the appointee, prior to advice being provided to the Governor in Council. For the Crime and Corruption Commission consultation with the Parliamentary Crime and Corruption Committee is already required as part of the appointment process for the chairperson, deputy chairperson, ordinary commissioner and chief executive officer. The 20 business day approval timeframe for parliamentary committees is intended to ensure timely decisions on key appointments.

The Bill also provides that the relevant parliamentary committees, the Speaker, the appropriate Minister and the Treasurer will receive the respective integrity body's annual report required under the *Financial and Accountability Act 2009* and the chair of the committee will be responsible for tabling the annual report in Parliament. This does not apply to the CCC as the Parliamentary Crime and Corruption Committee already examines the CCC's annual report as part of its functions.

Parliamentary committee approval and consultation with the head of the integrity body will also be required for setting the terms of reference for strategic reviews and appointing strategic reviewers. The committee must make their decision on the approval within 20 business days after receiving the request for approval. Should the relevant committee not make its decision within the required timeframe and fail to notify the Minister of its decision, the committee is taken to have approved the appointment or terms of reference. The committee chair will be required to table the strategic review report in the Legislative Assembly.

Auditor-General mandate for auditing trusts

The Bill will deliver on the Coaldrake Report's recommendation to address other outstanding recommendations from the Queensland Audit Office's (QAO) submission to the 2013 Finance and Administration Committee Inquiry and the *Strategic Review of the Queensland Audit Office 2017*. This recommendation was to *'clarify the Auditor-General's mandate for auditing trusts created and/or used by public sector entities in performing their functions'*.

The QAO currently audits some of these trusts under the 'by-arrangement' provision (section 36 of the *Auditor-General Act 2009*), which requires the non-public sector entity to agree to the audit. To clarify the Auditor-General's mandate to audit these trusts, the Bill creates new section 34A of the *Auditor-General Act 2009* to mandate that the Auditor-General audits particular trusts, where one or more public sector entities control the trust because at least one or more public sector entities are the trustees of the trust and one or more public sector entities hold directly or indirectly at least a 50 percent interest in the trust or the assets of the trust. In addition, the Bill amends section 37 of the *Auditor-General Act 2009* for the audit to be conducted as if the trust were a public sector entity.

An annual report to the Legislative Assembly on audits of trusts under section 34A must be prepared by the auditor-general and the annual report on the trusts audit may be included as part of the annual report to the Legislative Assembly (that is currently required on audits of public sector entities).

The policy intent is not to expand the scope or number of these particular trust audits the QAO currently undertakes by-arrangement and the existing provisions in the *Auditor-General Act 2009* relating to the conduct of audits will accommodate the mandate. The 'by-arrangement' provision will be retained.

Audit of Queensland legislation for references to Auditor-General inconsistent with function

One of the recommendations from the Queensland Audit Office's submission to the 2013 Finance and Administration Committee Inquiry that the Coaldrake Report recommended be implemented called for a review of '*other Queensland legislation to ensure any requirements for the Auditor-General to conduct audits are consistent with the discretion provided to the Auditor-General under the AG Act'*.

Accordingly, a preliminary audit of Queensland legislation was undertaken which identified a small number of Acts listed in Schedule 1 to the Bill, which contain obsolete references or inconsistent functions to those in the *Auditor-General Act 2009*. Some relevant departments will include required amendments in their own omnibus Bills later in the year.

Any references within legislation identified as being consistent with the Auditor-General's functions in the *Auditor-General Act 2009* will remain, without amendment. In addition, any national law references cannot be removed without agreement across all relevant jurisdictions as they provide consistency across all Auditors-General in Australia. References identified as possibly not completely consistent but are the result of previous policy decisions will remain if the reference still meets the original policy objective.

Independence of the Office of the Queensland Integrity Commissioner

Both the Yearbury and Coaldrake Reports called for the Office of the Queensland Integrity Commissioner (OQIC) to be an 'independent unit' of the Department of the Premier and Cabinet for 'administrative purposes'. The *Integrity and Other Legislation Amendment Act* 2022 created the OQIC as a separate public service office and provided the integrity commissioner with employing powers of a chief executive, with staff employed under the *Public Sector Act 2022.*

The Bill realises financial independence for the OQIC through its establishment as a statutory body for the purposes of the: *Financial Accountability Act 2009*, *Financial and Performance Management Standard 2019*, *Statutory Bodies Financial Arrangements Act 1982* and the *Statutory Bodies Financial Arrangements Regulation 2007*. Establishment as a statutory body is in accordance with the *Public Interest Map (PIM) for Queensland Government bodies*.

The integrity commissioner can now control the funds of the office as a separate legal entity. Statutory body status will require the OQIC to: prepare financial statements and a more detailed annual report (with the financial statements to be audited by the Queensland Audit Office; develop strategic and operational plans; develop a budget (as part of the portfolio budget SDS); and establish risk and internal control systems.

Queensland Ombudsman's jurisdiction over non-government contracted service providers

A recurring theme of Professor Coaldrake's review consultations (Coaldrake Report, page 26) was the role of contracted service delivery providers. The Coaldrake Report indicated that while these providers might be subject to contractual provisions which require adherence to quality standard frameworks, it is imperative the public maintain oversight of agency actions via the ombudsman, particularly when those functions are contracted out.

Accordingly, the Coaldrake Report recommends that the ombudsman's jurisdiction be widened to include non-government service providers (NGOs) that provide government services on behalf of, or under contract with, a government department.

Currently, the ombudsman's jurisdiction enables the administrative action of a government or local government agency to be investigated, but not the actions of an NGO performing a function on behalf of the agency. The jurisdiction is limited to investigating how the government agency has addressed the issue that is the subject of the complaint.

The Bill expands the Queensland Ombudsman's jurisdiction over non-government entities providing services on behalf of agencies. This allows the ombudsman to investigate administrative action taken by the entity, as well as making recommendations on administrative practices to the entity.

The policy intent is to balance the need to maintain oversight with the breadth of the ombudsman's jurisdiction and focus the ombudsman's expanded function on the entity's decision-making, practices and procedures, specifically as they relate to taking administrative action for, or in the performance of the functions conferred on the entity by the agency. It is not the policy intent to duplicate investigative activity where a particular complaints entity or ombudsman already exists in relation to the matter subject of complaint. Nor is it the intent for the functions of the ombudsman to extend to the entity's administrative decision making, practices and procedures more generally.

Alternative ways of achieving policy objectives

There are no alternative ways to achieve the policy objectives.

Estimated cost for government implementation

Implementing the outstanding Coaldrake Report and Yearbury Report recommendations that are given effect in this Bill are expected to have financial implications for integrity bodies.

Queensland Ombudsman reforms

The Bill amends the *Ombudsman Act 2001* to expand the Queensland Ombudsman's jurisdiction to include non-government service providers, where they are contracted to deliver public services on behalf of government, in line with the Coaldrake Report recommendation. As noted above, this will ensure appropriate oversight of entities delivering public services and enable the actions and decisions of these entities to be independently investigated, should a complaint be made.

The Queensland Ombudsman's service demands are expected to increase with the expansion of its jurisdiction over non-government entities providing services on behalf of agencies. To support the ombudsman, the Queensland Government has provided $5.035 million in services funding over four years and 10.5 ongoing FTEs to support the increased jurisdiction. The funding is based on similar experiences in other Australian jurisdictions.

Lobbyist Register platform

The Bill amends the *Integrity Act 2009* to require the integrity commissioner to keep a lobbying register, which is to be published on the commissioner's website.

An assessment of the current lobbyist register was conducted for the purposes of identifying areas of system improvement that are needed to implement the recommendations of the Coaldrake Report and Yearbury Report. Based on that assessment, it was determined that the current lobbyist register cannot be enhanced, and a full platform replacement is required to introduce system improvements, including those recommended by the Coaldrake and Yearbury Reports. The upgraded lobbying register project is being delivered in two iterations.

The first iteration of the replacement project adopts operational recommendations from the Coaldrake Report and Yearbury Report relating to the 'drop down' menu on the contact log with a requirement for a short description of the purpose and intended outcome of government

contact. It was operational from 30 May 2023, utilising existing Department of the Premier and Cabinet resources.

The second iteration will consider new technical requirements arising from this Bill.

Office of the Queensland Integrity Commissioner reforms

The Bill makes several amendments to the *Integrity Act 2009* to enhance the Office of the Queensland Integrity Commissioner's regulatory role of lobbyists and its financial independence as a statutory body.

The Queensland Government has invested $4 million over four years in the Office of the Queensland Integrity Commissioner to better provide integrity advice and regulate lobbyists, and to establish the Office as an independent statutory body.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles (FLPs). Potential breaches of the FLPs are identified and addressed below.

Expanding the Queensland Ombudsman's jurisdiction

The possible FLP inconsistency arises from expanding the ombudsman's functions to non-government entities, even though they are not an 'agency' (section 8 *Ombudsman Act 2001*). The possible FLP inconsistency is, however, lessened because of the limitation placed on the ombudsman's expanded jurisdiction in that it is confined to the (non-government) entity's decision-making, practices and procedures that relate to taking administrative action for, or in the performance of, functions conferred on the entity by an agency (new section 12A(3) of the *Ombudsman Act 2001*).

For example, the ombudsman can consider the administrative practices and procedures of agencies 'generally' (section 12(c) *Ombudsman Act 2001*). In relation to the (non-government) entities that would now be 'in scope' as a result of the amendment, the ombudsman's function would be confined to considering those administrative practices and procedures of the entity that are specific to the particular administrative actions taken by the entity for, or in the performance of, functions conferred on the entity (and not any other administrative practices or procedures of that entity).

Consultation

Professor Coaldrake undertook community consultation as part of the review.

Targeted consultation on a confidential draft of the Bill was undertaken with:

- the five core integrity bodies
- relevant peak industry organisations for:
    - law
    - government relations
    - development planning
    - resources

    - social services
    - medical
    - pharmacy
    - management consulting
    - accountancy
    - company and internal auditing
- selected major law, consultancy and lobbying firms operating in Queensland
- Local Government Association of Queensland
- Property Council of Australia
- Queensland Council of Unions
- The Public Trustee of Queensland
- Queensland Investment Corporation
- Queensland Treasury Corporation

Feedback received during the consultation process was taken into account in finalising the Bill.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland, and the extent to which it is uniform with, or complementary to, the Commonwealth or another state is not relevant in this context.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the *Integrity and Other Legislation Amendment Act 2023.*

Clause 2 states that the Bill is intended to commence on a day to be fixed by proclamation.

Part 2 Amendment of *Auditor-General Act 2009*

Clause 3 provides that this part amends the *Auditor-General Act 2009.*

The amendments in Clauses 4 and 5 are consistent with the Coaldrake Report recommendation to implement the outstanding recommendations from the Finance and Administration Committee (FAC**)** inquiry into the Auditor-General's independence (Inquiry), which made recommendations to enhance the independence of the Queensland Auditor-General by requiring the parliamentary committee to manage the selection and appointment process for the position of Auditor-General.

Clause 4 amends section 9 (Appointment of auditor-general) to omit section 9(2)(b) and inserts new sections 9(2)(b) and 9(2)(c), which together provide that the person is to be selected for appointment following a process for selection approved by the parliamentary committee, and that person's appointment as the auditor-general is approved by the parliamentary committee. *Clause* 4 also inserts new section 9(3) which provides that the parliamentary committee must, for the purposes of section 9(2)(c), decide to give or not give approval within 20 business days after receiving the request for approval from the Minister, otherwise the parliamentary committee is taken to approve the appointment.

Clause 5 amends section 11 (Terms of appointment) to replace, at section 11(2), the words, 'a salary at a rate, with the words, 'the remuneration and allowances'. *Clause 5* omits existing sections 11(3) and (4) to provide that 'the auditor general holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council' and that 'the Minister may make a recommendation to the Governor in Council regarding the remuneration, allowances, and terms and conditions of office only with the approval of the parliamentary committee.' New section 11(4A) is inserted, which stipulates that the parliamentary committee must decide, for the purposes of subsection 11(4), to give or not give the approval within 20 business days after receiving the request for the approval from the Minister, otherwise the parliamentary committee is taken to have approved the remuneration, allowances, and terms and conditions of office stated in the request.

Clause 6 omits section 21 (Estimates).

Clause 7 amends section 27 (Secondment of public service employees) to replace the section 27 heading with 'Engagement of public service employees for temporary period' and omits existing section 27(1) and inserts 'The auditor general may engage a public service employee to perform work for or within, or duties in the audit office for a temporary period under a mobility arrangement under the *Public Sector Act 2022*, section 82. Clause 7 also replaces the current reference to 'seconded' in section 27(2) with 'engaged'.

Clause 8 amends the section 28 heading (Restriction on employment or secondment of person) to omit the word 'secondment' and insert 'engagement'. Section 28 is also amended to replace the word 'seconded' with 'engaged'.

Clause 9 amends section 29 (Criminal History report) to omit the word 'seconded' from section 29(1) and (5) and insert 'engaged'.

Clause 10 amends section 29D (Preservation of rights if public service employee seconded) to omit the word 'seconded' from the heading and replace it with 'engaged'. Section 29D(2) omits from 'the secondment' to 'audit office' to insert 'the engagement, the person's employment as a member of the staff of the audit office under the engagement'. The word 'secondment' in section 29D(3) is replaced with 'engagement'.

The purpose of these amendments is to ensure that any public service employee engaged on a mobility arrangement temporarily to the audit office is with the public service employee's consent and that they retain their public service entitlements.

Clause 11 inserts new Part 2, Division 6 (Funding proposals), which includes new sections 29E, 29F, 29G, 29H, 29I and 29J.

The purpose of these new sections is to meet the intent of the Coaldrake Report recommendation to implement the outstanding recommendations from the FAC Inquiry, which made recommendations to enhance the independence of the Queensland Auditor-General by involving the parliamentary committee in setting the audit office's budget.

New section 29E (Definitions for division) provides definitions to terms that are specific to the division, including definitions for 'additional funding', 'allocated amount' and 'funding proposal'.

'Additional funding' for a financial year, means funding from the State for the audit office in addition to the allocated amount for the financial year.

'Allocated amount' for a financial year, means the amount of funding from the State allocated to the budget of the audit office for the financial year.

'Funding proposals' can be for multiple financial years and means a written request for additional funding for a financial year or 2 or more financial years.

New section 29F (Application of division) provides that this division applies if the auditor-general decides additional funding is needed for a financial year.

New section 29G (Requirement for, and approval of, funding proposal) provides that, should the auditor-general decide that additional funding is needed, the auditor-general must prepare a funding proposal for the additional funding which is to be provided to the parliamentary committee and a copy of the proposal to the Minister. It also stipulates, at section 29G(2), that, within the period stated in subsection (3), the parliamentary committee must review the auditor-general's funding proposal and give the Minister a report approving either the auditor-general's funding proposal, or an alternative funding proposal.

If the parliamentary committee's report is not prepared within 20 business days or within a shorter period notified by the Treasurer, then the committee is taken to have approved the auditor-general's funding proposal. If the Treasurer decides the approval is required within a shorter timeframe the Treasurer will notify the parliamentary committee of the shorter period and the reasons for it (Section 29G(3)(b)).

Section 29G(4) requires that the parliamentary committee must prepare the report in consultation with the appropriate officers of Queensland Treasury. In this context, the relevant parliamentary committee standing rules and orders apply, in addition to relevant duties and legislative obligations of Queensland Treasury officers, in relation to the confidentiality of the information which may be relevant to this consultation process.

The amendments for funding proposals accord with the QAO's submission to the 2013 Finance and Administration Committee Inquiry and the Strategic Review of the Queensland Audit Office 2017. In their submission, the QAO recommended that the Auditor-General's independence could be further strengthened by: *requiring the Auditor-General to provide the annual estimates for the QAO to the parliamentary committee; that the estimates be considered by the parliamentary committee and tabled in Parliament with such modification the committee thinks fit; including the annual estimates for the QAO in the Appropriation Bill for the Parliament; and adopting the same process for any supplementary funding requested by the Auditor-General during the year* (see QAO Recommendation 21, page 30 of the Submission).

New section 29H (Tabling requirement) requires the Minister to table the committee's report and a report setting out the Minister's response in the Legislative Assembly. The parliamentary committee report must not be tabled in the Legislative Assembly before the Minister's response has been implemented. 'Implemented' in relation to a funding proposal includes, for example, that the decision on a funding proposal has been reflected in the Appropriation Bill.

New section 29I (Parliamentary committee may obtain advice or information) provides that the parliamentary committee may obtain advice or other information from specified persons when preparing a report under section 29G(2). The specified persons include: the Treasurer; the Minister; the auditor-general.

New section 29J (Confidential information not required to be given) specifies that the auditor-general is not required to include in a funding proposal, or the auditor-general or any other person to give the parliamentary committee, any details that would prejudice a current audit by the auditor-general or disclose information that is privileged or subject to a duty to maintain confidentiality under an Act or other law.

Consistent with the Coaldrake Report recommendation to address 'other' outstanding recommendations from the QAO's submission to the 2013 Finance and Administration Committee Inquiry and the Strategic Review of the Queensland Audit Office 2017, *Clause 12* 'clarifies the Auditor-General's mandate for auditing trusts created and/or used by public sector entities in performing their functions'.

Clause 12 inserts new section 34A (Auditor-general must audit particular trusts) to mandate the auditor-general to audit each trust subject to the control of one or more public sector entities. Subsection 34(2) provides that 'a trust is subject to control by 1 or more public sector entities and 1 or more public sector entities collectively hold, directly or indirectly at least a 50%

interest in the assets held by the trust'. An audit of a trust under section 34A may be conducted as part of an audit of a public sector entity mentioned in subsection (2).

Clause 13 amends section 37 (Way in which audit to be conducted) to insert for the audit of a trust conducted under section 34A, the auditor-general must conduct the audit as if the trust were a public sector entity and for the purposes of the audit, references in this division relating to an entity apply generally to the trust, but if the context requires, to the trustee of the trust; and with any other necessary changes.

Clause 14 inserts new section 60A (Annual reports on audits of trusts under section 34A) which provides that the auditor-general must prepare a report to the Legislative Assembly on each audit of a trust conducted under section 34A. The report must set out the results of the audit and include any other information or recommendations the auditor-general considers appropriate. A report to the Legislative Assembly on an audit of a trust may be included in a report to the Legislative Assembly on an audit of a public sector entity under section 60.

Clause 15 amends section 68 (Conduct of strategic review of audit office) to omit, at section 68(1), the words, 'this part', and replace them with the words, 'this division'. *Clause 15* amends the provision further to omit section 68(5) and insert new sections 68(5) and 68(5A).

New section 68(5) provides that the advice to the Governor in Council regarding the appointment of a reviewer or the terms of reference for a strategic review may be given only with the approval of the parliamentary committee and after consultation with the auditor general.

New section 68(5A) stipulates that the parliamentary committee must decide to give or not give the approval within 20 business days after receiving the request for the approval and notify the Minister of its decision, otherwise the parliamentary committee is taken to approve the request.

New sections 68(5) and 68(5A) fulfil the Coaldrake Report recommendation to implement the outstanding recommendations from the FAC Inquiry, which made recommendations to enhance the independence of the Queensland Auditor-General by involving the parliamentary committee in the process of appointing the strategic reviewer and deciding the terms of reference for the review of the *Auditor-General Act 2009*.

Clause 16 amends section 70 (Report of strategic review) to insert 'parliamentary committee' in section 70(4) before 'the Minister' and for 70(5), to omit 'to them'. Section 70(6) is replaced with 'The chair of the parliamentary committee must table the review report in the Legislative Assembly within 3 sitting days after the committee receives the report'.

The amendments to sections 70(4), (5) and (6) are consistent with the Coaldrake Report recommendation to implement the outstanding recommendations from the FAC Inquiry, which made recommendations to enhance the independence of the Queensland Auditor-General by requiring the strategic reviewer to provide their report on the review directly to the parliamentary committee, rather the Minister.

Clause 17 amends and renumbers section 71 (2) and (3) (Audit of audit office) by inserting a new section 71(2) to provide that a person may be appointed under subsection (1) only if the parliamentary committee has approved the appointment. For subsection (2), new subsection (3) provides that the parliamentary committee must decide to give or not give the approval

within 20 business days and is taken to have approved the appointment of a person if the committee does not notify the Minister of its decision within the timeframe.

Clause 18 amends section 72 (Conduct of independent audit) to omit sections 72(2) and insert 'after an audit the person must give a report about the audit to the parliamentary committee, the Premier, the Treasurer and the auditor-general. New section 72(4) provides that the chair of the parliamentary committee must table the report received in the Legislative Assembly within 3 sitting days after the report is received.

Clause 19 inserts new section 72AA (Annual report) to provide that for the application of the *Financial Accountability Act 2009*, section 63 to the audit office, the appropriate Minister is the Minister for the time being administering this section and despite the *Financial Accountability Act 2009*, section 63(1)(b), the annual report for the audit office must be given to the parliamentary committee, the Speaker, the appropriate Minister and the Treasurer in the way and within the time mentioned in that section and despite the *Financial Accountability Act 2009*, section 63(2) the chair of the parliamentary committee must table the annual report in the Legislative Assembly within the time mentioned in that section. The section does not limit any other provision of this Act under which the auditor-general may make a report.

Clause 20 inserts new Part 6, Division 5 (Transitional provisions for Integrity and Other Legislation Amendment Act 2023), which includes new sections 97, 98, 99, 100, 101, 102 and 103.

New section 97 (Definitions) provides definitions for terms that are specific to the division, including definitions for 'amendment Act', 'former' and 'new'.

New section 98 (Existing appointments unaffected) clarifies that existing appointments that relate to an auditor-general, reviewer, or auditor of the audit-office remain unaffected by the amendments proposed in the Bill.

New section 99 (Existing strategic review) clarifies that this section applies in relation to a strategic review conducted before the commencement if the review report for the review has not been given under former section 70(4). Former section 70 continues to apply as if an amendment Act had not been enacted and new section 70 does not apply in relation to the strategic review.

New section 100 (Existing independent audit) clarifies that this section applies in relation to an audit conducted under section 71(1) before the commencement if a report about the audit has not been given under former section 72(2). Former section 72 continues to apply in relation to the audit as if the amendment Act had not been enacted. New section 72 does not apply in relation to the audit.

New section 101 (Matters relating to funding) provides that former section 21 continues to apply in relation to the audit office for the current financial year as if the amendment Act had not been enacted and that new Part 2, Division 6 applies in relation to the audit office for the next financial year and each subsequent financial year. Section 101(3) defines 'current financial year' and 'next financial year'.

New section 102 (Annual report for current financial year) clarifies that new section 72AA does not apply in relation to the annual report for the audit office for the financial year in which this section commences.

New section 103 (Audits of trusts under s34A) provides that new section 34A applies in relation to a trust mentioned in the section for the financial year in which this section commences and each subsequent financial year.

Clause 21 provides for the amendment of the schedule (Dictionary) to insert meanings for 'additional funding', 'allocated amount', 'annual report', 'funding proposal' and 'Queensland Treasury'.

Part 3 Amendment of *Crime and Corruption Act 2001*

Clause 22 provides that this part amends the *Crime and Corruption Act 2001.*

Clause 23 amends section 259(4) to provide a note in relation to funding proposals contained in Division 6A to clarify that these are separate to the budget approved by the Minister.

Clause 24 inserts new Chapter 6, Part 1, Division 6A (Funding proposals), which includes new sections 260A to F.

The purpose of these new sections is to meet the intent of the Coaldrake Report recommendation in respect of integrity bodies *to enhance the involvement of parliamentary committees in setting their budgets and contributing to key appointments*.

New section 260A (Definitions for division) provides definitions to terms that are specific to the division, including definitions for 'additional funding', 'allocated amount' and 'funding proposal'.

New section 260B (Application of division) provides that this division applies if the chief executive officer decides additional funding is needed for a financial year.

New section 260C (Requirement for, and approval of, funding proposal) provides that, should the chief executive officer decide additional funding is needed, the chief executive officer must prepare a funding proposal for the additional funding which is to be provided to the parliamentary committee and a copy of the proposal to the Minister. It also stipulates, at section 260C(2), that, within the period stated in subsection (3), the parliamentary committee must review the chief executive officer's funding proposal and give the Minister a report approving either the chief executive officer's funding proposal, or an alternative funding proposal.

If the parliamentary committee's report is not prepared within 20 business days or within a shorter period notified by the Treasurer, then the committee is taken to have approved the chief executive officer's funding proposal. If the Treasurer decides the approval is required within a shorter timeframe the Treasurer will notify the relevant portfolio committee of the shorter period and the reasons for it (section 260C(3)(b)).

Section 260C(4) requires that the parliamentary committee must prepare the report in consultation with the appropriate officers of Queensland Treasury. In this context, the relevant parliamentary committee standing rules and orders apply, in addition to relevant duties and

legislative obligations of Queensland Treasury officers, in relation to the confidentiality of the information which may be relevant to this consultation process.

New section 260D (Tabling requirement) requires the Minister to table the committee's report and a report setting out the Minister's response in the Legislative Assembly. The parliamentary committee report must not be tabled in the Legislative Assembly before the Minister's response has been implemented. 'Implemented' in relation to a funding proposal includes, for example, that the decision on a funding proposal has been reflected in the Appropriation Bill.

New section 260E (Relevant portfolio committee may obtain advice or information) provides that the parliamentary committee may obtain advice or other information from specified persons when preparing a report under section 260D(2). The specified persons include: the Treasurer; the Minister; the chief executive officer; an officer of the department.

New section 260F (Confidential information not required to be given) specifies that the chief executive officer is not required to include in a funding proposal, or the chief executive officer or any other person to give the parliamentary committee, any details that would prejudice a current investigation by the commissioner or disclose information that is privileged or subject to a duty to maintain confidentiality under an Act or other law.

Clause 25 inserts new Chapter 8, Part 18 (transitional provisions) for the *Integrity and Other Legislation Amendment Act 2023*), which includes new section 457.

New section 457(2) provides a definition for 'next financial year' that is specific to section 457.

Clause 26 amends Schedule 2 (Dictionary) to insert definitions for 'additional funding', 'allocated amount', 'funding proposal' and 'relevant portfolio committee'.

'Additional funding' for a financial year, means funding from the State for the commission in addition to the allocated amount for the financial year.

'Allocated amount' for a financial year, means the amount of funding from the State allocated to the budget of the commission for the financial year.

'Funding proposals' can be for multiple financial years and means a written request for additional funding for a financial year or 2 or more financial years.

'Relevant portfolio committee' means the portfolio committee under the *Parliament of Queensland Act 2001* whose portfolio area within the meaning of that Act includes the department, or the part of the department, in which this Act is administered.

Part 4 Amendment of *Integrity Act 2009*

Clause 27 provides that this part amends the *Integrity Act 2009.*

Clause 28 replaces the long title of the *Integrity Act 2009* to provide for both the integrity commissioner and Office of the Queensland Integrity Commissioner; to facilitate the giving of advice to Ministers, chief executives and others on ethics or integrity issues; and to ensure Ministers, chief executives and others appropriately manage conflicts of interest. It also reflects

the Bill's regulatory focus on particular lobbying activities with government representatives and Opposition representatives.

Clause 29 amends section 7 (Functions of integrity commissioner) to provide that the integrity commissioner has the functions to provide education and training of government representatives and registered lobbyists about the operation of Chapter 4.

Clause 30 amends section 12 (Meaning of designated person) inserting 'executive' where the currently the word 'officer' appears in section 12(1)(e).

Clause 31 amends section 15 (Request for advice) to insert (2A) that 'a designated person under section 12(1)(f) may ask for advice under subsection (1) only if the designated person has notified the relevant Minister of the request'.

This amendment is consistent with recommendation 5(a) of the Yearbury Report to ensure Ministers and Assistant Ministers are aware of integrity commissioner advice being sought by a member of their staff and that full contextual information is provided to the integrity commissioner. The Yearbury Report considered there is a risk to Ministers if Ministerial staff seek integrity commissioner's advice without the Minister's knowledge. The Ministerial Handbook places a positive obligation on Ministers to ensure their staff are aware of, and comply with, the Code of Conduct for Ministerial staff members. A Minister cannot fulfil the obligation to ensure a staff member is complying with the Code of Conduct if they are left uninformed of advice being sought by a staff member and for what purpose. Since the reason for seeking advice can only have to do with their official duties in assisting the Minister to fulfil their portfolio responsibilities, the Minister is entitled to know the nature of the matter at issue.

Clause 32 amends section 17 (Request by Minister) inserting 'executive' where 'officer' currently appears in section 17(c).

Clause 33 amends section 20 (Request by chief executive), inserting 'executive' where officer currently appears in section 20(2).

Clause 34 amends section 29 (Disclosure to Premier), inserting after 'senior executive', 'senior executive equivalent'.

Clause 35 amends section 30 (Disclosure to Minister), inserting after 'senior executive', 'senior executive equivalent'.

Clause 36 replaces Chapter 4 (Regulation of lobbying activities) with new Chapter 4 (Lobbying activity), which includes new sections 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 66A, 66B, 66C, 66D, 66E, 66F, 66G, 66H, 66I, 66J, 66K, 66L, 66M, 66N, 66O, 66P and 66Q.

New section 41 (Definitions) provides definitions to several terms used in Part 1 (Preliminary) of Chapter 4 (Lobbying activity), including definitions for 'approved training course', 'communicate', 'councillor', 'election', 'election period', 'employee', 'former Opposition representative', 'former representative', 'former senior government representative', 'government representative', 'listed person', 'lobbying activity', 'lobbying register', 'officer', 'official dealings', 'Opposition representative', 'public sector officer', 'recorded particulars',

'registered lobbyist', 'registered lobbyists code of conduct', 'representative', 'substantial role', and 'third party client'.

The definition of 'communicate' is intended to capture all modern forms of communication, including instant messaging and other new and emerging communication forms.

A definition is provided to explain what constitutes a 'substantial role' in the state election campaign of a political party. Notably, a substantial role does include one that is done via a volunteering arrangement. A registered lobbyist must not perform such a role during the election period and must notify the integrity commissioner before commencing such a role during an election period of their intention to perform this role to remove their registration. If a substantial role is undertaken, that person will be subsequently disqualified from re-registration until the first general election following the election period at new section 49(3). This disqualification will apply regardless of which political party forms government.

New section 42 (What is lobbying activity) provides for when an entity will be considered to have carried out lobbying activity for the purposes of the *Integrity Act 2009*. An entity will carry out lobbying activity if the entity communicates with a government representative in an effort to influence decision-making of the State government or a local government, or alternatively, communicates with an Opposition representative in an effort to influence decision-making of the Opposition. An Opposition representative is defined in new section 45 as the Leader of the Opposition, the Deputy Leader of the Opposition and a staff member in the office of the Leader of the Opposition. New section 42 also includes a non-exhaustive list of examples of lobbying activity.

New section 43 (What is not a lobbying activity) provides a range of activities that will not be considered lobbying activity for the purposes of the *Integrity Act 2009*. An entity does not carry out a lobbying activity if the entity communicates with a representative in the following capacity: as a member of a committee of the Legislative Assembly or a local government; in the representative's capacity as a local representative on a constituency matter in the Legislative Assembly or a local government; in response to a call for submissions; in the form of a petition or a campaign of a grassroots nature; in response to a request for tenders; in a public forum; in response to a request for information by a representative; with a representative about a non-business or non-commercial matter; with a representative in the ordinary course of making an application or seeking a review or appeal about a decision, under an Act; in the ordinary course of providing professional or technical services to a person.

The Coaldrake Report found that a person was able to 'escape' regulation by virtue of their position or employment. To address this, the Bill clarifies that the activity of communicating with a government or Opposition representative is not lobbying where it is in the ordinary course of duty of a professional or technical service provider. For example, it is not 'lobbying activity' if a lawyer makes representations to a government representative as part of settlement negotiations for a client.

However, a professional or technical service provider is carrying out lobbying activity if they are communicating with the government or Opposition representative beyond the usual course of providing professional or technical services to a person. For example, a lawyer makes representations to a government representative to try and influence a decision, beyond providing legal advice or negotiating a legal outcome for a client.

Another example would be an individual engaging a town planner to prepare a planning submission to be prepared for government. The town planner is able to discuss the particulars of the submission with a government representative to clarify any questions. This would not constitute lobbying activity. If the town planner goes further and advocates in an attempt to influence the decision of a government representative, then this would be lobbying activity and would require registration.

New section 44 (Who is a government representative) provides that the following persons are considered government representatives for the purposes of the *Integrity Act 2009*: the Premier; a Minister; an Assistant Minister; a councillor; a ministerial staff member; an assistant minister staff member; or, a public sector officer. A 'public sector officer' is defined at new section 41.

New section 45 (Who is an Opposition representative) provides that the following persons are considered Opposition representatives for the purposes of the *Integrity Act 2009*: the Leader of the Opposition; the Deputy Leader of the Opposition; or, a staff member in the office of the Leader of the Opposition.

New section 46 (Lobbying activity by unregistered entity prohibited) prohibits an entity from carrying out a lobbying activity for a third party client for a commission, payment or other reward, unless the entity is a registered lobbyist. It also imposes a maximum penalty of 200 penalty units. New section 46 does not apply to an unregistered person who is an entity under section 47(1).

New section 46(2) provides that a person is taken not to be registered if disqualified by virtue of their substantial involvement in the election period for a political party, if that person's name remains on the lobbying register and is to be removed as soon as practicable by the integrity commissioner under section 66N(3).

New section 47 (Certain entities not required to be registered) provides the circumstances in which the following entities may carry out a lobbying activity without being a registered lobbyist: a non-profit entity, an entity constituted to represent the interests of its members, a member of a trade delegation, and an officer or employee of any of these groups, but only if the purpose of the lobbying activity was to reflect the respective interests of the non-profit entity, members or delegation. If this is not the case, registration would be required. For example, if a peak body for a profession is paid or otherwise compensated to provide advocacy services for a private company, not necessarily aligned with members' interests, the peak body would require registration.

The new provision also provides, at section 47(2), a definition of 'non-profit entity'.

New section 48 (Who may apply) provides that an entity may apply to the integrity commissioner for registration as a lobbyist. The application may be for the applicant; the applicant and each officer or employee of the applicant carrying out lobbying activity for the applicant; or if the entity is already a registered lobbyist – an officer or employee of the applicant who carries out lobbying activity and is not registered.

New section 49 (Disqualification of previously registered individual who performed substantial role in election campaign of political party), in conjunction with new sections 58 and 66A, addresses the Coaldrake Report recommendation to strengthen Queensland's lobbying regulation by prohibiting an individual who had been a registered lobbyist and who performed

a substantial role in an election campaign from engaging in lobbying activity for the next term of government. This section disqualifies such an individual from re-registering as a lobbyist for the next term of government.

A 'substantial role' in the election campaign of a political party and the 'election period' is defined in new section 41. New section 58 prohibits a registered lobbyist from playing a substantial role in the election campaign of a political party during an election period. New section 66A requires that the registered lobbyist must notify the integrity commissioner of their intention to play the role and new section 66N(3) provides that the integrity commissioner must remove the registered lobbyist from the Lobbyist Register.

New section 49 provides that, regardless of whether or not the person complies with the requirement to notify the integrity commissioner at section 66A, that person is disqualified from continuing to be a registered lobbyist or seeking to be re-registered as a lobbyist.

The individual is disqualified from being a registered lobbyist if they performed a substantial role during the election period in the election campaign of a political party. If the individual is disqualified, they are for a period starting when they started performing the substantial role and ends on the day on which the writ is issued for the first general election after the end of the election period where the substantial role was undertaken.

The concern is that engaging in lobbying activity while playing a significant role in an election campaign could create, at the very least the impression of a reciprocal relationship between an individual carrying out lobbying activity and the political party that they provided their services to. It would further damage the integrity of government or Opposition if their decisions favoured clients of entities engaged through the election campaign. This section addresses this situation of potential influence by disqualifying individuals from registration for the ensuing term of government.

Whilst this section will impose a burden on the implied freedom as lobbying is a form of political communication, preventing undue influence in government is a legitimate purpose for imposing this burden. The proposed section will also prevent undue influence from arising by prohibiting such lobbying from taking place. The timeframe proposed is due to the risk of undue influence not dissipating at a certain time after the term of office commences (and would be present throughout its entirety).

New section 50 (Requirements for making application) sets out the requirements for making an application to be a registered lobbyist. It provides that an application must be in the approved form and accompanied by a statement providing the required disclosures, and, where the applicant is a former representative, a statement setting out their official dealings as a former representative in the 2 years immediately before the person became a former representative.

New section 50(2) provides that an applicant or an employee of the applicant may be required to provide their criminal history as part of their application. It further provides, at section 50(4), the definition of 'criminal history' and 'spent conviction'.

If an applicant has officers or employees, new section 50(2)(c) provides that the applicant must also provide a statement listing the name and role of each employee or officer that does not carry out lobbying activity, or whose only role is to carry out administrative duties, or an employee whose tole only involves work outside Queensland. This information supports the

application and if the application is approved, the employees and officers listed in this statement are not 'listed persons' or 'registered lobbyists' in the Lobbyist Register (see definitions at section 41).

New section 51 (Deciding application) imposes an obligation on the integrity commissioner to decide to approve or refuse an application as soon as practicable after it is made. It also provides, at section 51(2), that the integrity commissioner may approve an application where they are satisfied the applicant, as well as any listed persons, is not disqualified by virtue of their involvement in the election period of a political party.

The integrity commissioner has the discretion to refuse an application on a number of specified grounds, including that the application includes a materially false or misleading representation or declaration; the entity or listed person has previously failed to comply with the registered lobbyists code of conduct or a requirement under Chapter 4 (Lobbying activity); the registration of the entity or listed person as a lobbyist has previously been cancelled or suspended in another jurisdiction; or, any other ground the integrity commissioner considers sufficient.

New section 52 (Inquiry about application) provides the integrity commissioner with the power to prepare a notice requiring an applicant to provide further information or a document the integrity commission reasonable requires as part of deciding an application. It also stipulates the further information or document must be given in at least 5 business days or in a period agreed to between the integrity commissioner and the applicant. If the further information or document is not provided in the relevant timeframe, then the applicant is taken to have withdrawn their application. The integrity commissioner is also empowered to require the applicant to verify the further information or document by statutory declaration.

New section 53 (Conditions) provides that entities or each listed person for the entity must undertake an approved training course within a stated period after registration takes effect; or, the entity, or each listed person for the entity undertakes an approved training course at regular intervals of not longer than 12 months if the integrity commissioner considers it appropriate. This provision also gives the integrity commissioner discretion to impose other appropriate conditions on the registration of an entity.

New section 54 (Steps after, and taking effect of, decision) provides that the integrity commissioner must give the applicant notice of a decision to approve their application. While it is intended that the notice of decision to approve an application and the updating of the register occurs on the same day, it is recognised that this may not always be practicable. New section 54(2) provides that, where an application has been approved, registration takes effect on either the day stated in the notice; or the day the lobbying register is updated, whichever of these events occur first. The notice should state the day the registration takes effect.

New section 55 (Code of conduct) provides the integrity commissioner with a discretionary power to approve a code of conduct for registered lobbyists following consultation with the parliamentary committee. It also states that the registered lobbyists code of conduct must include a policy relating to conflicts of interest for registered lobbyists, and it may impose obligations on registered lobbyists to give the integrity commissioner information about lobbying activities carried out by them. After approving the registered lobbyists code of conduct, the integrity commissioner must also publish it on the integrity commissioner's website.

Registered lobbyists must comply with the registered lobbyists code of conduct.

New section 55 is consistent with the Yearbury Report recommendation to update the Lobbyists Code of Conduct to include a specific Conflict of Interest Policy, the purpose of which is to assist in the management of conflicts of interest and ensure the conduct of lobbyists is in keeping with public expectations.

New section 56 (Approved training) provides the integrity commissioner with a discretionary power to approve a course to be completed before an individual can be, or continue to be, a registered lobbyist. If a course is approved, the integrity commissioner is required to publish a description of the course on the integrity commissioner's website.

This new provision enhances lobbyist understanding of their obligations and requirements under the *Integrity Act 2009* by requiring the successful completion of an approved course before they register as a lobbyist, consistent with the recommendation in the Yearbury Report.

New section 57 (Directives) provides the integrity commissioner with a discretionary power to issue a directive about the operation of a provision in Chapter 4 or the registered lobbyists code of conduct; the operation of a policy relating to conflicts of interest for registered lobbyists; and any other matter the integrity commissioner considers appropriate. Once a directive has been issued, the integrity commissioner is required to publish it on the integrity commissioner's website. It is intended that the Registered Lobbyists Code of Conduct sets the standards of conduct for registered lobbyists, while the Directives set out operational, procedural and technical matters for registered lobbyists. Directives are only to apply to registered lobbyists and not to government or Opposition representatives.

New section 57 is consistent with the Yearbury Report recommendation to provide the Queensland Integrity Commissioner with the power to issue directives concerning the applications of policies, the purpose of which is to assist in the management of conflicts of interest and ensure the conduct of lobbyists is in keeping with public expectations.

Part 5 Restrictions on particular lobbying activity, Division 1 Dual hatting. New section 58 (Registered lobbyist must not perform substantial role in election campaign of political party during an election period) provides that a registered lobbyist must not perform a substantial role during an election period for an election in the election campaign of a political party. A 'substantial role' in the election campaign of a political party and the 'election period' are defined in new section 41.

This is consistent with the Coaldrake Report recommendation to strengthen Queensland's lobbying regulation by explicitly prohibiting the practice of 'dual hatting', thereby ensuring that you may be a registered lobbyist or provide professional political advice, not both.

New section 59 (Who is a former senior government representative) sets out who is a former senior government representative for the purposes of the *Integrity Act 2009*. A former senior government representative is a person who held, but no longer holds, any of the following offices: Premier; Minister; Assistant Minister; councillor; ministerial staff member; assistant minister staff member; and an office of a public sector officer that is an office of chief executive, senior executive or senior executive equivalent.

New section 60 (Who is a former Opposition representative) sets out who is a former Opposition representative for the purposes of the *Integrity Act 2009*. A former Opposition representative includes a person who held, but no longer holds, any of the following offices: Leader of the Opposition; Deputy Leader of the Opposition; staff member in the office of the Leader of the Opposition.

New section 61 (Who is a former representative) sets out who is a former representative for the purposes of the *Integrity Act 2009*. A former representative means a former senior government representative or a former Opposition representative.

New section 62 (Former representative must not carry out lobbying activity relating to official dealings of previous 2 years) prohibits a former representative from carrying out lobbying activity for a third party client within 2 years after becoming a former representative, provided the lobbying activity is related to the official dealings in which the person engaged as a former representative. New section 41 provides for the meaning of 'official dealings' in relation to a person who is a former representative.

Part 6, Obligations of representatives, contains new section 63 (Representative must not knowingly permit lobbying in contravention of s 46) provides that a representative must not knowingly permit an entity that is unregistered to conduct lobbying activity with a representative.

New section 64 (Representative must not knowingly permit lobbying in contravention of s 62) provides that a representative must not knowingly permit a former representative from carrying out lobbying activity with the representative if the lobbying activity relates to official dealings in which the former representative engaged in the two years prior to becoming a former representative.

New section 65 (Registered lobbyist must give notice of change in recorded particulars) provides that a registered lobbyist must give the integrity commissioner a notice stating the details of the change within 20 business days after they become aware of the change. If the registered lobbyist is a listed person for an entity the obligation to provide this notice applies to the entity in relation to the entity's registration as a lobbyist; and the listed person must ensure the entity is notified of the change.

New section 66 (Registered lobbyist must give annual return of recorded particulars) requires registered lobbyists to give the integrity commissioner a notice confirming the accuracy of the particulars recorded on the registered lobbyists within one month after the end of each financial year.

New Section 66A (Individual who is registered lobbyist must give notice of intention to perform substantial role in election campaign) requires an individual that is a registered lobbyist to give the integrity commissioner a notice advising that they intend to perform a substantial role in the election campaign of a political party in the election, immediately after forming the intention.

New section 66B (Representative must give integrity commissioner notice if subject to lobbying activity by unregistered person) requires the responsible person for a representative to give the integrity commissioner notice of lobbying activity by an unregistered person. The

responsible person must give the notice as soon as practicable after the representative becomes aware, and it must include the name and details of the entity.

A responsible person may delegate the giving of the notice to an appropriately qualified person. A 'responsible person' is a defined term in Schedule 2 of the *Integrity Act 2009*.

New section 66C (Representative may give integrity commissioner information about lobbying activity) enables a responsible person for a representative to give the integrity commissioner information relating to lobbying activity, provided they believe the information may be relevant to the functions or powers of the integrity commissioner. The new provision also provides that this can include personal information about an individual who is carrying out or seeking to carry out lobbying activity. This may be delegated to an appropriately qualified person.

The new provision also provides that a responsible person may delegate the giving of the notice to an appropriately qualified person.

New section 66D (Integrity commissioner may require information from registered lobbyist or another person) provides the integrity commissioner with a discretionary power to prepare a notice requiring a person to give the commissioner information or a document relating to a suspicion that the person is disqualified from being a registered lobbyist, or failed to comply with a condition of registration or the registered lobbyists code of conduct.

The new provision also stipulates the notice must be complied with, within the period stated in the notice of at least 15 business days or in a period agreed to between the integrity commissioner and the applicant unless the lobbyist or other person has a reasonable excuse. A reasonable excuse includes privilege against self-incrimination.

New section 66D is consistent with the Yearbury Report recommendation to amend the *Integrity Act 2009* so that there is a requirement for government representatives or Opposition representatives to provide meeting records and other relevant information when requested by the integrity commissioner. The insertion of this new power is necessary to enable the integrity commissioner to effectively audit lobbyist records and monitor compliance and overcome the current impediments to regulating lobbyist activity.

New section 66E (Verification by statutory declaration) enables the integrity commissioner to require information or documents mentioned in Part 7 (sections 65 to 66D) to be verified by statutory declaration.

New section 66F (When compliance notice may be given) provides the integrity commissioner with a discretionary power to prepare a compliance notice in specified circumstances. The compliance notice may require the person to rectify the matter by doing any act or refraining from doing an act.

This is consistent with the Yearbury Report recommendation to improve the efficiency of Queensland's lobbying regulation by amending the *Integrity Act 2009* to allow the Queensland Integrity Commissioner to seek an explanation and/or issue a direction to take remedial action about a compliance matter, without first having to issue a show cause notice. The insertion of this new power is necessary to overcome the limited options available to the Queensland Integrity Commissioner when dealing with suspected non-compliance, which were described in the Yearbury Report as inflexible, severe and inefficient.

New section 66G (Requirements for compliance notice) sets out the requirements for a valid compliance notice. It stipulates that a compliance notice must state that the integrity commissioner suspects the person is failing, or has failed, to comply with a specified matter; how it is suspected the person is failing, or has failed, to comply; the matter relating to the failure that the integrity commissioner believes is reasonably capable of being rectified; the reasonable steps the registered lobbyist must take to rectify the matter; that the registered lobbyist must take the steps within a stated reasonable period; and, that failure to comply with the notice may lead to the integrity commissioner taking further action.

If the compliance notice requires the person to refrain from doing an act, it also must state either a period for which the requirement applies, or that the requirement applies until further notice.

New section 66H (Grounds for taking action) empowers the integrity commissioner to take the following action if the entity has engaged in specified conduct: to impose a condition on, or vary or remove a condition of, the registration; to suspend the registration for a stated period of not more than 12 months; or to cancel the registration.

New section 66I (Show cause notice before taking action) provides that before the integrity commissioner can take further action against an entity, they must give the entity a show cause notice stating: that the integrity commissioner intends to take the action; the proposed action; the ground for the proposed action; an outline of the facts and circumstances forming the basis for the ground for the proposed action; that the entity may, within 14 days after the notice is given, or a longer period agreed to by the integrity commissioner, give the integrity commissioner a written response to the proposed action.

New section 66J (Decision in relation to taking action after show cause process) provides the integrity commissioner may decide to take, or not to take, further action after considering any written response from the person. If no further action is taken, the integrity commissioner must give the entity notice of the decision. The decision would take effect at the end of 10 days after the date of the decision or if the notice states a later day of effect, the later day.

New Section 66K (Extension of suspension of registration) enables the integrity commissioner to extend the suspension of registration if they decide that the facts and circumstances warrant it. The total period of suspension must not be more than 12 months and the integrity commissioner must give the entity notice of the further period of suspension before the initial period ends.

New section 66L (Lobbying register) requires the integrity commissioner to keep a register of registered lobbyists, which is to be kept in a way the integrity commissioner considers appropriate and published on the integrity commissioner's website.

New section 66M (Particulars to be recorded in the lobbying register) outlines the particulars to be included on the lobbying register for each registered lobbyist, including: the name, role and business registration of the registered lobbyist; whether the registered lobbyist was an applicant under section 49(1) or a listed person for an applicant; whether the registered lobbyist is a former senior government representative or former Opposition representative; if the registered lobbyist is a former representative, the date on which the lobbyist became a former representative and details of the official dealings in which the registered lobbyist engaged as a

former representative in the 2 years immediately before the person became a former representative; if the registered lobbyist has officers or employees, the name of each employee or officer of the registered lobbyist other than an officer or employee who is a registered lobbyist or an employee whose role involves only administrative duties or an employee whose role within the entity exclusively involves work outside Queensland; the name and contact details of each person with whom the registered lobbyist has a contract or other agreement under which the registered lobbyist is required or permitted to provide a lobbying activity; the name and contact details of each person for whom the registered lobbyist has carried out a lobbying activity in the 12 months immediately before the registered lobbyist applied for registration or gave the integrity commissioner information under section 65 or 66; if the registration of the registered lobbyist has been suspended or cancelled under Part 9, the date of, and grounds for, the cancellation or suspension; or any other particulars prescribed by regulation.

New section 66N (Updating lobbying register) requires the integrity commissioner to update the lobbying register as soon as practicable after receiving notice that a lobbyist's details have changed. The new provision imposes an obligation on the integrity commissioner to remove a person from the lobbying register if they become aware of specified events, including when: the person is disqualified under section 49 from being registered as a lobbyist, or continuing to be registered as a lobbyist; the integrity commissioner receives a notice under section 66A that an individual who is a registered lobbyist intends to perform a substantial role in an election campaign; the person's registration as a registered lobbyist is cancelled or suspended under Part 9.

New section 66O (Particular conduct of unregistered person prohibited) provides that a person who is not a registered lobbyist must not: carry on, or purport to carry on, a business of providing services constituting, or including, a lobbying activity for another person; hold out that the person is a registered lobbyist; take or use a title, name or description that, having regard to the circumstances in which it is taken or used, indicates or could be reasonably understood to indicate the person is a registered lobbyist.

The new provision imposes a maximum penalty of 200 penalty units.

New section 66P (Success fee prohibited) prohibits a person from giving, or agreeing to give, to another person (a lobbyist), a success fee in relation to lobbying activity carried out by or for the lobbyist. It also imposes a maximum penalty of 200 penalty units.

The new provision also prohibits a lobbyist from receiving, or agreeing to receive, from another person a success fee in relation to lobbying activity carried out by or for the lobbyist. It also imposes a maximum penalty of 200 penalty units. If a conviction is secured against either provision, the success fee is forfeited to the State. If a conviction is quashed against either provision, the success fee must be returned to the person.

The new provision also includes definitions to terms that are specific to the section, including definitions for 'conviction', 'related person' and 'success fee'.

New section 66Q (Act not to require or limit particular contact) specifies that nothing in Part 12 requires a representative to communicate with a particular entity carrying out a lobbying activity or entities carrying out lobbying activities in general; or, limits an entity from

communicating with a representative if the representative is required under law to take account of information communicated by the entity.

Clause 37 amends section 74 (Procedure before appointment) to omit section 74(1)(b) and insert new sections 74(1)(b) and 74(1)(c), which together provide that the person is to be selected for appointment following a process for selection approved by the parliamentary committee, and that the person's appointment as the integrity commissioner is to be approved by the parliamentary committee. *Clause 37* also inserts new subsection (2A) to provide that for subsection (1)(c), the parliamentary committee must decide to give or not give the approval within 20 days and is taken to have approved the appointment of a person if the committee does not notify the Minister of its decision within the timeframe.

Section 74(3) is also amended to omit the current reference to 'and (b)(i)' and inserts 'and (b)' and section 74(2A) and (3) are re-numbered as subsections 74(3) and (4).

Clause 38 amends section 76 (Remuneration and conditions) to insert new sections 76(4) and 76(5) to provide advice to the Governor in Council regarding the remuneration, allowances and other terms and conditions of the integrity commissioner's office is only to be given with the approval of the parliamentary committee. *Clause 38* further provides that the parliamentary committee must decide to give or not give the approval within 20 business days after receiving the request for the approval. If the parliamentary committee does not notify the Minister of its decision within the timeframe, the parliamentary committee is taken to have approved the remuneration, allowances, terms and conditions of office.

Clause 39 amends and relocates section 85 (Annual reports of integrity commissioner) to omit the current heading and insert a new heading, 'Report about performance of functions'. *Clause 39* also relocates section 85 to Chapter 5, Part 5, as inserted by this Act and re-numbers the section as section 85K.

Clause 40 inserts new section 85BA (Integrity office is a statutory body) to establish the integrity office as a statutory body for the purposes of the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*. Subsection 85BA(2) provides that the *Statutory Bodies Financial Arrangements Act 1982*, Part 2B sets out the way in which the integrity office's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

This change accords with Yearbury Recommendation 24 to enhance the independence of the integrity commissioner: a) there should formally be established an Office of the Integrity Commissioner as an independent unit within the Department of the Premier and Cabinet consistent with the function being one within the portfolio of the Premier, and b) the integrity commissioner be accountable for the performance of the office in discharging the functions under the Act within the budget provided, and financial delegations commensurate with prudent financial management under the *Financial Accountability Act 2009*, and c) staff be appointed directly to the office and (although public servants) be managed autonomously by the integrity commissioner.

Clause 41 inserts new Chapter 5, Parts 4 and 5 (Funding proposals), which includes new sections 85E (Definitions for part), 85F (Application of part), 85G (Requirement for, and approval of, funding proposal), 85H (Tabling requirement), 85I (Parliamentary committee may obtain advice or information, 85J (Confidential information not required to be given).

The purpose of these new sections is to meet the intent of the Coaldrake Report recommendation to increase the independence of the integrity bodies, including through enhancing *the involvement of parliamentary committees in setting their budgets and contributing to key appointments.*

New section 85E (Definitions for part) provides definitions to terms that are specific to the division, including definitions for 'additional funding', 'allocated amount' and 'funding proposal'.

'Additional funding' for a financial year, means funding from the State for the integrity office in addition to the allocated amount for the financial year.

'Allocated amount' for a financial year, means the amount of funding from the State allocated to the budget of the integrity office for the financial year.

'Funding proposals' can be for multiple financial years and means a written request for additional funding for a financial year or 2 or more financial years.

New section 85F (Application of part) provides that this part applies if the integrity commissioner decides additional funding is needed for a financial year or 2 or more financial years.

New section 85G (Requirement for, and approval of, funding proposal) provides that where the integrity commissioner decides additional funding is needed, the integrity commissioner must prepare a funding proposal for the additional funding which is to be provided to the parliamentary committee and a copy of the proposal to the Minister. It also stipulates, at section 85G(2), that, within the period stated in subsection (3), the parliamentary committee must review the integrity commissioner's funding proposal and give the Minister a report approving either the integrity commissioner's funding proposal, or an alternative funding proposal.

If the parliamentary committee's report is not provided within 20 business days or within a shorter period notified by the Treasurer, then the committee is taken to have approved the integrity commissioner's funding proposal. If the Treasurer decides the approval is required within a shorter timeframe the Treasurer will notify the parliamentary committee of the shorter period and the reasons for it (Section 85G(3)(b)).

New Section 85G(4) requires that the parliamentary committee must prepare the report in consultation with the appropriate officers of Queensland Treasury. In this context, the relevant parliamentary committee standing rules and orders apply, in addition to relevant duties and legislative obligations of Queensland Treasury officers, in relation to the confidentiality of the information which may be relevant to this consultation process.

New section 85H (Tabling requirement) requires the Minister to table the committee's report and a report setting out the Minister's response in the Legislative Assembly. The parliamentary committee's report must not be tabled in the Legislative Assembly before the Minister's response to the funding proposal has been implemented. 'Implemented' in relation to a funding proposal includes, for example, that the decision on a funding proposal has been reflected in the Appropriation Bill.

New section 85I (Parliamentary committee may obtain advice or information provides that for preparing its report, the parliamentary committee may obtain advice or information from particular persons.

New section 85J (Confidential information not required to be given) provides that the integrity commissioner is not required to include in a funding proposal or give to the parliamentary committee, any details that would prejudice a current ethics or integrity issue being considered or information that that is privileged or subject to confidentiality under an Act or other law.

New section 85L (Annual report) provides that, for the purposes of section 63 of the *Financial Accountability Act 2009*, the appropriate Minister is the Minister for the time being administering this section. It also specifies that the annual report for the integrity office must be given to the parliamentary committee, the Speaker, the appropriate Minister and the Treasurer, despite section 63(1)(b) of the *Financial Accountability Act 2009*. Under the new provision, the chair of the parliamentary committee must table the annual report in the Legislative Assembly.

Clause 42 amends section 86 (Conduct of reviews) to omit section 86(6) and insert new sections 86(6) and 86(6A).

New section 86(6) provides that the advice to the Governor in Council regarding the appointment of a reviewer or the terms of reference for a strategic review may be given only with the approval of the parliamentary committee and after consultation with the integrity commissioner.

New section 86(6A) stipulates that the parliamentary committee must decide to give or not give the approval within 20 business days after receiving the request for the approval. The parliamentary committee is taken to approve the appointment if it does not notify the Minister of its decision within the timeframe.

Section 86(6A) to (8) are re-numbered as section 86(7) to (9).

Clause 43 amends section 88 (Report of strategic review) to insert in section 88(4) 'the parliamentary committee' before 'the Minister' and amends section 88(6) to omit and insert (6) 'the chair of the parliamentary committee must table the review report in the Legislative Assembly within 3 sitting days after the committee receives the report'.

Clause 44 amends section 89 (Functions of parliamentary committee) insert, at section 89(c), 'for the integrity office tabled in the Legislative Assembly under the *Financial Accountability Act 2009*', and omit, at section 89(d), the words, 'strategic review'.

Clause 45 inserts new Chapter 8, Division 5 (Transitional provisions for Integrity and Other Legislation Amendment Act 2023), which includes new sections 104, 105, 106, 107 and 108.

New section 104 (Definitions for division) provides definitions to terms that are specific to the division, including definitions for 'amendment Act', 'former' and 'new'.

New section 105 (Existing appointments unaffected) clarifies that the existing appointment of an integrity commissioner remains unaffected by new sections 74(1) and 76(4). It also clarifies

that new section 86(6) does not affect the appointment of a reviewer in effect immediately before the commencement of the provision.

New section 106 (Existing strategic review) provides that existing strategic reviews conducted before the commencement of the relevant provision will continue in accordance with former section 88, provided the report for the review has not been given.

New section 107 (Funding proposals) clarifies that new Chapter 5, Part 4 applies in relation to the integrity office for the next financial year and each subsequent financial year and defines 'next financial year'.

Clause 46 amends the Schedule 2 (Dictionary) to insert definitions for 'additional funding', 'allocated amount', 'annual report', 'funding proposal' and 'senior executive equivalent'

Clause 46 amends Schedule 2 (Dictionary) to omit the definition of 'lobbyists register', consistent with the recommendation in the Coaldrake Report to change the name to reflect that the regulatory focus is on the substance rather than form.

Clause 46 also amends Schedule 2 by inserting several definitions relevant to the amendments effected by the Bill, including definitions for 'additional funding', 'allocated amount', 'annual report', approved training course', 'communicate', 'councillor', 'directive', 'election', 'employee', 'former Opposition representative', 'former representative', 'former senior government representative', 'funding proposal', government representative', 'listed person', 'lobbying activity', 'lobbying register', 'officer', 'official dealings', 'Opposition representative', 'parliamentary service', 'public sector entity', 'public sector officer', 'recorded particulars', 'registered lobbyist', 'registered lobbyist code of conduct', 'representative', 'senior executive equivalent', 'substantial role', 'third party client'.

Part 5 Amendment of *Ombudsman Act 2001*

Clause 47 provides that this part amends the *Ombudsman Act 2001.*

Clause 48 amends section 8 (Meaning of *agency*) to insert a note to refer to new section 12A in relation to entities that are taken to be an agency for the exercise of the ombudsman's functions under that section.

Clause 49 amends the *Ombudsman Act 2001* to ensure the Queensland Ombudsman's jurisdiction includes non-government service providers, where they are contracted to deliver public services on behalf of government, in line with the Coaldrake Report recommendation. The amendments will ensure appropriate oversight of entities delivering public services and enable the administrative actions and decisions of these entities to be independently investigated should a complaint be made.

Clause 49 inserts new section 12A (Ombudsman's functions for administrative action taken by entity that is not an agency), which extends the jurisdiction of the ombudsman to include non-government agencies in performance of an agency's functions. Under the new section, the ombudsman is empowered to investigate administrative action taken by the entity on reference from the Assembly or a statutory committee of the Assembly, on complaint, or on the ombudsman's own initiative. The ombudsman is also authorised, under the new section, to

consider administrative practices and procedures of the entity and make recommendations to the entity.

The new section enables the Queensland Ombudsman to provide advice, training, information or other help to the entity about ways of improving the quality of the entity's administrative practices and procedures.

Importantly, subsection (3) clarifies the limit of the scope of the ombudsman in this context, which applies only in relation to the entity's decision-making, practices and procedures that relate to taking administrative action for, or in the performance of functions conferred on the agency.

Clause 50 amends and re-numbers section 59 (Procedure before appointment) to omit section 59(1)(b) and insert new sections 59(1)(b) and 59(1)(c), which together provide that the person is to be selected for appointment following a process for selection approved by the parliamentary committee, and that person's appointment as the ombudsman and the inspector of detention services is approved by the parliamentary committee.

Clause 50 also inserts new sections 59(1A)(a) and 59(1A)(b), which together provide that the parliamentary committee must decide to give or not give approval within 20 business days after receiving the request. If the parliamentary committee does not notify the Minister of its decision within the time stated, the parliamentary committee is taken to have approved the request. Section 59(2) is amended to remove reference to 'and (b)(i)' and insert 'and (b)' and section 59(1A) and (2) are renumbered as section 59(2) and (3).

Clause 51 amends section 62 (Remuneration and conditions) to insert new sections 62(4), (5) and (6), which together provide that advice to the Governor in Council regarding the remuneration, allowances and other terms and conditions of the ombudsman and inspector of detention service's office is only to be given with the approval of the parliamentary committee, who are required to decide to give or not give the approval within 20 business days after receiving the request for the approval. If the committee does not notify the Minister of its decision within the period, the parliamentary committee is taken to have approved the remuneration, allowances, terms and conditions.

Clause 52 amends and renumbers section 83 (Strategic review of ombudsman office) to omit section 83(7) and insert new sections 83(7) and 83(7A). New section 83(7) provides that the advice to the Governor in Council regarding the appointment of a reviewer or the terms of reference for a strategic review may be given only with the approval of the parliamentary committee and after consultation with the ombudsman.

New section 83(7A) stipulates that the parliamentary committee must decide to give or not give the approval within 20 business days after receiving the request for the approval. If the committee does not make a decision within the timeframe, the committee is taken to have approved the request. *Clause 52* also re-numbers section 83(7A) to (9) as section 83(8) to (10).

Clause 53 amends section 85 (Report of strategic review) to insert 'the parliamentary committee', at section 85(4) before 'the Minister' and omit section 85(6) and insert, 'The chair of the parliamentary committee must table the review report in the Legislative Assembly within 3 sitting days after the committee receives the report'.

Clause 54 inserts new Part 8, Division 4A (Funding proposals), which includes new section 85A (Definitions for division); section 85B (Application of division), section 85C (Requirement for, and approval of, funding proposal), section 85D (Tabling requirement), section 85E (Parliamentary committee may obtain advice or information) and section 85F (Confidential information not required to be given).

The purpose of these new sections is to meet the intent of the Coaldrake Report recommendation to increase the independence of the integrity bodies, including through *enhancing the involvement of parliamentary committees in setting their budgets and contributing to key appointments*.

New section 85A (Definitions for division) provides definitions to terms that are specific to the division, including definitions for 'additional funding', 'allocated amount' and 'funding proposal'.

'Additional funding' for a financial year, means funding from the State for the ombudsman in addition to the allocated amount for the financial year.

'Allocated amount' for a financial year, means the amount of funding from the State allocated to the budget of the ombudsman for the financial year.

'Funding proposals' can be for multiple financial years and means a written request for additional funding for a financial year or 2 or more financial years.

New section 85B (Application of division) provides that this division applies if the ombudsman decides additional funding is needed for a financial year.

New section 85C (Requirement for, and approval of, funding proposal) provides that should the ombudsman decides additional funding is needed, the ombudsman must prepare a funding proposal for the additional funding which is to be provided to the parliamentary committee and a copy of the proposal to the Minister. It also stipulates, at section 85C(2), that, within the period stated in subsection (3), the parliamentary committee must review the ombudsman's funding proposal and give the Minister a report approving either the ombudsman's funding proposal, or an alternative funding proposal.

If the parliamentary committee's report is not prepared within 20 business days or within a shorter period notified by the Treasurer, then the committee is taken to have approved the ombudsman's funding proposal. If the Treasurer decides the approval is required within a shorter timeframe the Treasurer will notify the parliamentary committee of the shorter period and the reasons for it (Section 85C(3)(b)).

Section 85C(4) requires that the parliamentary committee must prepare the report in consultation with the appropriate officers of Queensland Treasury. In this context, the relevant parliamentary committee standing rules and orders apply, in addition to relevant duties and legislative obligations of Queensland Treasury officers, in relation to the confidentiality of the information which may be relevant to this consultation process.

New section 85D (Tabling requirement) requires the Minister to table the committee's report and a report setting out the Minister's response in the Legislative Assembly. The parliamentary committee report must not be tabled in the Legislative Assembly before the Minister's response

has been implemented. 'Implemented' in relation to a funding proposal includes, for example, that the decision on a funding proposal has been reflected in the Appropriation Bill.

New section 85E (Parliamentary committee may obtain advice or information) provides that the parliamentary committee may obtain advice or other information from specified persons when preparing a report under section 85C(2). The specified persons include: the Treasurer; the Minister; the auditor-general; an officer of the department.

New section 85F (Confidential information not required to be given) specifies that the ombudsman is not required to include in a funding proposal, or the ombudsman or any other person to give the parliamentary committee, any details that would prejudice a current investigation by the ombudsman or disclose information that is privileged or subject to a duty to maintain confidentiality under an Act or other law.

Clause 55 amends section 87 (Annual report) to insert, before 'office' in section 87(1) the word 'ombudsman'. For section 87(2), omit the current wording and insert, 'Also – (a) despite the *Financial Accountability Act 2009*, section 63(1)(b), the annual report for the ombudsman office must be given to the parliamentary committee, the Speaker, the appropriate Minister and the Treasurer in the way and within the time mentioned in that section; and (b) despite the *Financial Accountability Act 2009*, section 63(2), the chair of the parliamentary committee must table the annual report in the Legislative Assembly within the time mentioned in that section.

Clause 56 omits section 88 (Estimates).

Clause 57 amends section 89 (Functions) to insert subsection (ca) in relation to the functions of the parliamentary committee, including 'to examine each annual report for the ombudsman office tabled in the Legislative Assembly under the *Financial Accountability Act 2009* and, if appropriate, to comment on any aspect of the report'. Section 89(d) is also amended to omit the word 'annual' and sections 89(ca) to (f) are re-numbered as sections 89(d) to (g).

Clause 58 inserts new Part 12, Division 7 (Transitional provisions for Integrity and Other Legislation Amendment Act 2023), which includes new sections 114, 115, 116, 117, 118 and 119.

New section 114 (Definitions) provides definitions to terms that are specific to the division, including definitions for 'amendment Act', 'former' and 'new'.

New section 115 (Investigation etc. of particular entities) provides that the new functions of the ombudsman in section 12A apply in relation to administrative action of an agency taken, by an entity that is not an agency, after the commencement of the provision.

New section 116 (Existing appointments unaffected) clarifies that the existing appointment of the ombudsman remains unaffected by the proposed amendments. The new provision also clarifies that new section 83(7) does not apply to an appointment of a reviewer in effect immediately before the commencement of the provision.

New section 117 (Existing strategic review) clarifies that an existing strategic review conducted before the commencement of the relevant provision will continue in accordance with former section 85, provided the report for the review has not been given.

New section 118 (Matters relating to funding) provides former section 88 continues to apply in relation to the ombudsman office for the current financial year as if the amendment Act had not been enacted. New Part 8, Division 4A applies in relation to the ombudsman office for the next financial year and each subsequent year. The new section also defines 'current financial year' and next 'financial year'.

New section 119 (Annual report for current financial year) provides that new section 87(2) does not apply in relation to the annual report for the ombudsman office for the financial year in which this section commences. Section 119(2) provides that former section 87(2) continues to apply in relation to the annual report for the ombudsman for the financial year as if the amendment Act had not been enacted.

Clause 59 amends Schedule 3 (Dictionary) to insert definitions for 'additional funding', 'allocated amount', 'annual report' and 'funding proposal'. It also amends the Dictionary to omit the definition of 'ombudsman office' for Part 8, Division 1.

Part 6 Amendment of *Parliament of Queensland Act 2001*

Clause 60 amends the *Parliament of Queensland Act 2001* to assist in implementing the Coaldrake Report recommendation that, … '*integrity bodies' independence by enhanced by involvement of parliamentary committees in setting their budgets and contributing to key appointments'* (Recommendation 12, page 3).

Clause 61 amends section 92(3)(b) regarding the role of parliamentary committees and provides for the ability of committees to consider funding proposals and to report and make recommendations about such proposals (ahead of government consideration), and to provide this report to the Minister, rather than the Legislative Assembly.

Part 8 Amendment of *Right to Information Act 2009*

Clause 62 provides that this part amends the *Right to Information Act 2009.*

Clause 63 omits section 133 (Budget and performance).

Clause 64 amends and re-numbers section 135 (Procedure before appointment) to omit section 135(1)(b) and insert new sections 135(1)(b) and 135(1)(c), which together provide that the person has been selected for appointment following a process for selection approved by the parliamentary committee, and the Minister has obtained the parliamentary committee's approval for the appointment of the person as the information commissioner.

Clause 64 also inserts new section 135(1A)(a) which provides that for subsection (1)(c), the parliamentary committee must decide to give or not give approval within 20 business days after receiving the request for approval from the Minister, otherwise (b) the parliamentary committee is taken to have approved the appointment of the person as if the committee does not notify the Minister of its decision within the timeframe. Section 135(2) is also amended to replace 'and (b)(i)' with 'and (b)'. Section 135(1A) and (2) are re-numbered as section 135(2) and (3).

Clause 65 amends section 137 (Remuneration and conditions) to insert new section 137(4) to provide that the Minister may make a recommendation to the Governor in Council regarding the remuneration, allowances and other terms and conditions of the information commissioner's office is only to be given with the approval of the parliamentary committee.

Clause 65 further provides, at new sections 137(5)(a) and (b), that the parliamentary committee must decide to give or not give the approval within 20 business days after receiving the request for the approval. The parliamentary committee is taken to have approved the remuneration, allowances and terms and conditions of office stated in the request if the committee does not notify the Minister of its decision within the period.

Clause 66 inserts new Chapter 4, Part 7 (Other provisions), which includes Division 1 (Funding proposals) and Division 2 (Reporting).

The purpose of these new sections is to meet the intent of the Coaldrake Report recommendation to increase the independence of the integrity bodies, including by enhancing the involvement of parliamentary committees in key oversight areas and in setting their budgets.

New section 168A (Definitions for division) provides definitions to terms that are specific to the division, including definitions for 'additional funding', 'allocated amount' and 'funding proposal'.

'Additional funding' for a financial year, means funding from the State for the Office of the Information Commissioner in addition to the allocated amount for the financial year.

'Allocated amount' or a financial year, means the amount of funding from the State allocated to the budget of the Office of the Information Commissioner for the financial year.

'Funding proposals' can be for multiple financial years and means a written request for additional funding for a financial year or 2 or more financial years.

New section 168B (Application of division) provides that this division applies if the information commissioner believes additional funding is needed for a financial year.

New section 168C (Requirement for, and approval of, funding proposal) provides that if the information commissioner believes additional funding is needed, the information commissioner must prepare a funding proposal for the additional funding which is to be provided to the parliamentary committee and a copy of the proposal to the Minister. It also stipulates, at section 168C(2), that, within the period stated in subsection (3), the parliamentary committee must review the information commissioner's funding proposal and give the Minister a report approving either the information commissioner's funding proposal, or an alternative funding proposal.

If the parliamentary committee's report is not prepared within 20 business days or within a shorter period notified by the Treasurer, then the committee is taken to have approved the information commissioner's funding proposal. If the Treasurer decides the approval is required within a shorter timeframe the Treasurer will notify the parliamentary committee of the shorter period and the reasons for it (Section 168C(3)(b)).

Section 168C(4) requires that the parliamentary committee must prepare the report in consultation with the appropriate officers of Queensland Treasury. In this context, the relevant parliamentary committee standing rules and orders apply, in addition to relevant duties and legislative obligations of Queensland Treasury officers, in relation to the confidentiality of the information which may be relevant to this consultation process.

New section 168D (Tabling requirement) requires the Minister to table the committee's report and a report setting out the Minister's response in the Legislative Assembly. The parliamentary committee's report must not be tabled in the Legislative Assembly before the Minister's response has been implemented. 'Implemented' in relation to a funding proposal includes, for example, that the decision on a funding proposal has been reflected in the Appropriation Bill.

New section 168E (Parliamentary committee may obtain advice or information) provides that the parliamentary committee may obtain advice or other information from specified persons when preparing a report under section 168C(2). The specified persons include: the Treasurer; the Minister; the auditor-general; an officer of the department.

New section 168F (Confidential information not required to be given) specifies that the information commissioner is not required to include in a funding proposal, or the information commissioner or any other person to give the parliamentary committee, any details that would prejudice a current investigation by the information commissioner or disclose information that is privileged or subject to a duty to maintain confidentiality under an Act or other law.

New section 168G (Annual report) provides that, for the purposes of section 63 of the *Financial Accountability Act 2009*, the appropriate Minister is the Minister for the time being administering this section. It also specifies that the annual report for the information commissioner's office must be given to the parliamentary committee, the Speaker, the appropriate Minister and the Treasurer, despite section 63(1)(b) of the *Financial Accountability Act 2009*. Under the new provision, the chair of the parliamentary committee must table the annual report in the Legislative Assembly.

Clause 67 amends section 185 (Report to Assembly on Act's operation) to omit, at section 185(1), the words, 'tabled in the Assembly', and replace them with the words, 'given to the parliamentary committee'.

Clause 67 also inserts new section 185(3) to require the chair of the parliamentary committee to table a report, for the purposes of 185(1), in the Legislative Assembly within 3 sitting days after the report is received.

Clause 68 amends and re-numbers section 186 (Strategic review of office) to omit section 186(8) and insert new sections 186(8) and 186(8A).

New section 186(8) provides that the advice to the Governor in Council regarding the appointment of a reviewer or the terms of reference for a strategic review may be given only with the approval of the parliamentary committee and after consultation with the information commissioner.

New section 186(8A) stipulates that the parliamentary committee must decide to give or not give the approval within 20 business days after receiving the request for the approval, otherwise the parliamentary committee is taken to have approved the request.

Clause 69 amends section 188 (Report of strategic review) to remove reference to 'the Minister' in section 188(4) and insert 'parliamentary committee' and omit the current wording in section 188(6) and replace it with 'The chair of the parliamentary committee must table the strategic review report in the Assembly within 3 sitting days after the committee receives the report'.

Clause 70 amends section 189 (Functions of parliamentary committee) to omit in section 189(d) from 'tabled' to 'this act' and insert, 'for the OIC tabled in the Assembly under the *Financial Accountability Act 2009*'. *Clause 70* also, for section 189(e) omits the words 'strategic review'.

Clause 71 inserts new Chapter 7, Part 8 (Transitional provisions for Integrity and Other Legislation Amendment Act 2023), which includes new sections 206E, 206F, 206G, 206H and 206I.

New section 206E (Definitions) provides definitions to terms that are specific to the part, including definitions for 'amendment Act', 'former' and 'new'.

New section 206F (Existing appointments unaffected) clarifies that the existing appointment of an information commissioner remains unaffected by new sections 135(1) and 137(4) and that new section 186(8) does not affect the appointment of a reviewer in effect immediately before the commencement of the provision.

New section 206G (Existing strategic review) provides that in relation to a strategic review conducted before the commencement and if the strategic review report for the review has not been given former section 188 continues to apply as if the amendment Act had not been enacted.

New section 206H (Matters relating to funding) provides that former section 133 continues to apply in relation to the Office of the Information Commissioner for the current financial year as if the amendment had not been enacted and that new Chapter 4, Part 7, Division 1 applies in relation to the Office of the Information Commissioner for the next financial year and each subsequent financial year. Definitions for current and next financial year are also provided.

New section 206I (Report on Act's operation) provides that former section 185 continues to apply in relation to the financial year as if the amendment Act had not been enacted.

Clause 72 amends Schedule 5 (Dictionary) to insert definitions for 'additional funding', 'allocated amount' and 'funding proposal'.

Part 9 Other amendments

These changes progress another of the Coaldrake Report's recommendations, to implement other outstanding recommendations from the 2013 Finance and Administration Committee (FAC) Inquiry and 2017 Strategic review. In particular, an additional recommendation from the Queensland Audit Office's submission to the 2013 FAC Inquiry called for a review of '*other Queensland legislation to ensure any requirements for the Auditor-General to conduct audits are consistent with the discretion provided to the Auditor-General under the AG Act'*.

A preliminary audit of Queensland legislation identified a small number of Acts listed in Schedule 1 to the Bill, which contain obsolete references or contradictory functions to those in the *Auditor-General Act 2009*.

In addition, a minor amendment is made to the *Information Privacy Act 2009* to resolve a resultant ambiguity (from the proposed *Right to Information Act 2009* amendments) about the annual report tabling requirement. Section 194 of the *Information Privacy Act 2009* puts the requirement to table the report on the Minister and amended section 185 of the *Right to Information Act 2009* requires the chair of the parliamentary committee to table the annual report in the Assembly. Further, section 194(3) of the *Information Privacy Act 2009* currently refers to an 'annual report' but section 185 of the *Right to Information Act 2009* refers to a 'report'.

The minor amendments made to the *Integrity Act 2009* relate to re-numbering of particular section references.

Clause 73 provides that Schedule 1 amends the legislation that it mentions.

Schedule 1 Other amendments

Auditor-General Act 2009

Clause 1 omits 'a copy of' from section 67(2).

Clause 2 omits 'definition Queensland Treasury' from section 72A(4).

Education (General Provisions) Act 2006

Clause 1 amends section 135(1) by omitting 'Subject to' to 'the accounts' and inserting, 'The accounts'.

Information Privacy Act 2009

Clause 1 omits existing section 194(3) and inserts '(3) A report under this section may be included and tabled as part of a report prepared by the Minister and given and tabled under the *Right to Information Act 2009*, section 185'.

Integrity Act 2009

Clause 1 in respect of section 20A, definition *post-separation obligation*, paragraph (b), omits 'section 70' and inserts 'section 62'

Clause 2 in respect of section 20D(2), definition *post-separation obligation*, paragraph (b), omits 'section 70' and inserts section 62.

Clause 3 in respect of section 25 definition *relevant* document, paragraph (b), omits 'section 15(4)' and inserts section 15(5).

Clause 4 in respect of section 25, definition *relevant document*, paragraph (c), omits 'section 15(5)' and inserts section 15(6).

Local Government Act 2009

Clause 1 omits the definition of 'auditor-general' from Schedule 4 (Dictionary).

Petroleum and Gas (Production and Safety) Act 2004

Clause 1 omits the definition of 'auditor-general' from Schedule 2 (Dictionary).

Water Act 2000

Clause 1 omits section 738P.